

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

MATTHEW HERBERT FORGEY,)	
)	
Petitioner,)	
)	
v.)	No. 1:17-cv-03029-TWP-MPB
)	
SUPERINTENDENT,)	
)	
Respondent.)	

Entry Denying Petitioner’s Motion for Discovery

Petitioner Matthew Herbert Forgey’s September 27, 2017, motion for discovery, dkt. [8], is **denied** without prejudice, because the motion is premature. Respondent has entered an appearance but the due date for his return to the show cause order has not yet passed. Without a return, the issues for the Court to address have not yet been adequately framed.

Rule 6(a) of the *Rules Governing § 2254 Cases*, 28 U.S.C. § 2254, allows habeas corpus petitioners to conduct civil discovery “if, and to the extent that, the judge in the exercise of his discretion and for good cause shown grants leave to do so, but not otherwise.” *See Bracy v. Bramley*, 520 U.S. 899, 904 (1997) (“A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course.”). In order to be entitled to discovery, petitioner must make specific factual allegations that demonstrate that there is good reason to believe that petitioner may, through discovery, be able to garner sufficient evidence to entitle him to relief. *See id.* at 908-09.

Discovery has not been authorized in this action. Because the issues to be decided have not yet been framed, the Court is unable to make an informed decision granting a discovery motion. In any event, petitioner’s motion sets forth a long list of material he wants in discovery, but he

does not make specific factual allegations to demonstrate why such discovery would obtain evidence that would entitle him to habeas corpus relief. He cites only to State of Indiana court rules, which are inapplicable in federal court, and has not shown the need for discovery.

After respondent has filed a return to the show cause order, and the issues for decision are better focused, petitioner may elect to renew his request for discovery, if appropriate.

IT IS SO ORDERED.

Date: 9/28/2017



TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana

Distribution:

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